

EXHIBIT L

ARBITRATION PROCEEDINGS
BEFORE PAUL D. STAUDOBAR, ARBITRATOR

STANFORD HOSPITAL AND CLINICS,)
)
)
and) Case No. 06-59192
)
)

SERVICES EMPLOYEES INTERNATIONAL)
UNION, LOCAL 715,)

CERTIFIED COPY

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)
Grievance of Anesthesia)
Techs; Relief Pay in Higher)
Classifications-FMCS.)
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TRANSCRIPT OF PROCEEDINGS
PALO ALTO, CALIFORNIA
APRIL 24, 2007

REPORTED BY: JANE H. STULLER, CSR NO. 7223 (394420)

M E R R I L L L E G A L S O L U T I O N S

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TRANSCRIPT OF PROCEEDINGS, taken at the 1530
Page Mill Road, Palo Alto, California, commencing at
10:00 a.m., April 24, 2007, before Jane H. Stuller, CSR
No. 7223.

PROCEEDINGS April 24, 2007

A P P E A R A N C E S

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P R O C E E D I N G S

--oOo--

THE ARBITRATOR: We are here for a grievance arbitration between Stanford Hospital and Clinics and Service Employees International Union Local 715. This is a grievance pertaining to anesthesia techs and also in regard to relief pay in higher classifications. This is Federal Mediation Conciliation Service case No. 06-59192.

For the Employer, Laurence R. Arnold, Esquire from the law firm of Foley & Lardner in San Francisco. For the Union, Vincent A. Harrington, Jr., Esquire from the law firm of Weinberg, Roger & Rosenfeld in Alameda.

MR. ARNOLD: Can we add to that Scott Inciardi of Foley & Lardner as he may be doing some of the questioning here.

THE ARBITRATOR: Okay. Certainly. Co counsel Scott Inciardi also here today.

Prior to going on the record, the parties efficiently prepared some joint exhibits.

Joint Exhibit 1 is the contract dated January 20th, 2006 through November 4th, 2008 involving the parties.

Joint Exhibit 2 is the previous contract going

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1 from 2002 to 2005.

2 Joint Exhibit 3 is the earlier contract from
3 '99 to '01 involving the parties.

4 Joint Exhibit 4 is the grievance, which appears
5 to be dated April 25th, 2006, and Joint Exhibit 5 is the
6 second-step or second-level response by the Employer,
7 and that's dated July 21st, 2006.

8 (Whereupon, Joint Exhibit Nos. 1, 2, 3, 4 and
9 5 were marked for identification and received
10 into evidence.)

11 The parties stipulated that all procedural
12 issues have been complied with or waived and that the
13 grievance is properly before the arbitrator for a
14 finally and binding decision.

15 MR. HARRINGTON: That's correct.

16 MR. ARNOLD: Correct.

17 THE ARBITRATOR: And they were unable to agree,
18 to stipulate to the grievance, although, their positions
19 are not really radically different. May I invite each
20 side to state your version of the issue, and then as I
21 understand it, I would be empowered down the road to
22 frame an issue.

23 Mr. Harrington, would you --

24 MR. HARRINGTON: Yes. The Union states the
25 question presented is whether the Employer violated

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1 Article 9 of the contract when it terminated the 5
2 percent differential pay to anesthesia techs who are
3 assigned to carry the Spectra -- S-P-E-C-T-R-A -- phone
4 beginning on or about February of 2006, and if so, what
5 is the remedy.

6 MR. ARNOLD: The Employer's position is whether
7 or not anesthesia techs are entitled to receive
8 additional pay under Article 9 of the contract for
9 carrying the Spectralink -- S-P-E-C-T-R-A-L-I-N-K --
10 phone.

11 THE ARBITRATOR: Okay. Thank you. And now
12 this is a nondisciplinary matter, so it's customary for
13 the Union to have the burden of proof and to present its
14 case first, so I would ask Mr. Harrington if he would
15 like to proceed with his opening statement.

16 MR. HARRINGTON: Yes. The Union will present
17 evidence that for a number of years prior to the
18 execution of the present contract, which is Joint
19 Exhibit 1 and during the term of, we believe, each of
20 the previous contracts, the Employer paid a 5 percent
21 differential to the anesthesia tech on a given shift who
22 was assigned special duties which distinguished that
23 person from the other techs on the shift.

24 The evidence we will offer will show that at
25 one point in time, the compensation that was paid, which

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1 was 5 percent differential, was paid to someone who
2 carried a pager on a given shift.

3 With the advent of the Spectra or Spectralink
4 phone, which occurred prior to the execution of Joint
5 Exhibit 1, the compensation of the 5 percent
6 differential continues, but the method for communicating
7 with that individual changed. So you will hear that
8 rather than having a pager device, the person actually
9 was given a telephone with -- through which direct
10 verbal communication would occur throughout the duration
11 of the individual's shift.

12 The anesthesia techs who are -- on whose behalf
13 the Union brings this grievance, work in the operating
14 room and the surgery center of the Employer and in
15 various locations throughout the acute care hospital.
16 But you will hear that it does not involve employees in
17 that classification who work in the labor and delivery
18 area who have different terms and conditions,
19 apparently.

20 The evidence we will offer is that the -- on a
21 rotational basis, and at various times it's been for the
22 a period of a week at a time, and more recently
23 apparently on a daily basis, an individual on the day
24 shift, the p.m. or evening shift, as it's called, and
25 the night or midnight shift would be assigned to carry

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1 this Spectralink device.

2 And the Spectralink device as we've indicated
3 is a means of directly communicating with that tech
4 during that shift concerning a whole range of issues
5 which would come up during the shift in which it was the
6 obligation of that person to address, such as supplies;
7 such as the need to move staffing or change staffing,
8 such as the need to open or close rooms, such as the
9 need to assist an anesthesiologist somewhere in the
10 facility.

11 The testimony we will offer will establish that
12 it was stated that the individual who had that
13 Spectralink phone had the first responsibility to deal
14 with those various requests as they occurred during the
15 day and were also obligated to complete their other
16 usual assignments. Because like everyone else, if they
17 had certain rooms to which they were assigned, they had
18 certain duties that they were to accomplish during their
19 shift.

20 Our evidence will be that it was not uncommon
21 and is not uncommon to receive as many as 40 or 50 calls
22 on this telephone during the course of any normal
23 eight-hour shift. And the carrying of that phone had
24 substantial impact on employees both with respect to
25 these additional duties and with respect to the need to

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1 not only accomplish those duties, but as well accomplish
2 all other assigned duties.

3 It is also the case that it was understood, our
4 evidence will be by other techs, that the person with
5 that phone had the ability to seek and/or request and/or
6 cajole their coworkers to provide them with assistance,
7 to change their own assignments, to move from here to
8 there, to go get supplies, et cetera.

9 Now, historically, our evidence will also be
10 that there were a variety of other ways within the
11 hospital where hospital employees could be communicated
12 with. Overhead pages, for example, telephones,
13 et cetera. However, you will hear that the overhead
14 page is not the device which is utilized for this
15 communication with this designated tech for a couple of
16 reasons. In the workroom which the techs work out of,
17 the overhead page can't be heard.

18 Secondly, the overhead page cannot be heard in
19 the OR. It can't be, therefore, responded to. So the
20 presence or absence of these other means of
21 communicating with the person on the shift with this
22 assignment are essentially irrelevant. And it was the
23 literally handing off of this phone from shift to shift
24 in the physical way which identified the person who had
25 that responsibility.

11

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1 On or about the middle of February of 2006
2 after the contract was bargained, the Employer
3 unilaterally said we're not paying this 5 percent
4 differential anymore. Just stopped it. They didn't
5 stop the duty. They didn't stop the assignment. They
6 didn't withdraw the phone. They are simply getting the
7 same work without paying for it, which is a classic
8 unilateral change, in our judgment, which they could
9 have but did not bargain for in the contract on
10 negotiations which had only then recently concluded.

11 So it's our judgment that there's a violation
12 of practices associated with the application of this
13 article in this department unilaterally obtained by the
14 Employer, and therefore, is a violation of the contract.
15 And you should find that and you should order that
16 employees who had the assignment on and after the date
17 of the Employer's action should be retroactively made
18 whole for lost pay and associated benefits of -- for
19 carrying the Spectralink phone.

20 THE ARBITRATOR: Okay. Thank you very much,
21 Mr. Harrington.

22 Mr. --

23 MR. HARRINGTON: We would also say --

24 THE ARBITRATOR: I'm sorry.

25 MR. HARRINGTON: -- just by way of conclusion

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1 with respect to the remedy that in the event that you
2 find a violation, that you, in our judgment, should
3 remand the identification of employees and the
4 calculation of any remedy to the parties for them to
5 bargain or consult concerning that, and you should
6 retain jurisdiction over the actual implementation of
7 any remedy if that's appropriate.

8 THE ARBITRATOR: Okay. Mr. Arnold, would you
9 like to make an opening statement?

10 MR. ARNOLD: I'll reserve.

11 THE ARBITRATOR: Okay. Very well. So then
12 would you like to proceed with your case in chief,
13 Mr. Harrington?

14 MR. HARRINGTON: Yes. Thank you. I call
15 Gerald Ashford as a witness.

16 This is the hot seat.

17 GERALD ASHFORD,
18 having first been duly sworn, was
19 examined and testified as follow:

20 DIRECT EXAMINATION BY MR. HARRINGTON
21 BY MR. HARRINGTON:

22 Q. Sir, for our record, would you give us your
23 name, please.

24 A. My name is Gerald R. Ashford.

25 Q. Okay. And have you provided your name on the

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1 sign-in sheet for the reporter?

2 A. Yes, I did.

3 Q. Okay. So as you can see, the reporter is
4 taking down what we say on the record, and I'd ask you
5 to keep that in mind, if you would, when you give your
6 testimony.

7 A. Yes, sir.

8 Q. And give us a verbal or audible answer rather
9 than nodding or shaking you head or saying "uh-huh" --

10 A. Right. I understand.

11 Q. -- which we do in every day conversation, but
12 perhaps not here.

13 A. I understand.

14 Q. And the other thing I'd ask you to keep in
15 mind, if you can, is to speak up perhaps more loudly
16 than you might in normal conversation so we all hear
17 your testimony.

18 A. Yes.

19 Q. Thank you. Do you presently work for the
20 Employer Stanford Hospital and Clinics?

21 A. Yes, I do.

22 Q. And where are you presently working for
23 employer?

24 A. I'm currently employed in the main OR
25 anesthesia workroom.

14

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1 Q. And OR is --

2 A. Operating room.

3 Q. -- operating room. Okay.

4 A. Okay.

5 Q. Thank you. And briefly for our records, 'cause
6 we may be referring to this, what is the anesthesia
7 workroom?

8 A. The anesthetic workroom is a room in which --
9 where we feed out of. This is where all of our supplies
10 are kept. And this is basically our room where we, you
11 know -- I guess you could say our workshop. That's
12 where we -- when rooms come up for turnover, you know,
13 in our workroom we have all the supplies to turn the
14 room over; circuits, masks, gloves, ET tubes, you know,
15 things of that nature. Our set ups for the following
16 cases, you know, we have to assemble those and get them
17 ready for the case that's going to be following, so the
18 workroom is basically our workshop.

19 Q. Okay. And how long have you -- strike that.

20 What's your present job classification with the
21 Employer?

22 A. I'm an anesthesia technician.

23 Q. And how long have you been an anesthesia tech?

24 A. I came here June 3rd, 2002, so it's almost five
25 years.

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1 Q. Okay. And you said that you work in the main
2 OR. In which of the facilities is that location?

3 A. That's in the Stanford Hospital building.

4 Q. And could you briefly, for our record, describe
5 what your job duties -- putting aside what we've
6 referred to as the Spectralink phone, tell us, for our
7 record, what do you do as an anesthesia technician?

8 A. An anesthesia tech sets up and disassembles
9 operating rooms before and after the cases. We also
10 troubleshoot and do minor repairs on equipment. We
11 start IVs -- you know, we create IVs for the patients in
12 pre-op, so a variety of other duties that -- we maintain
13 the logging of the malignant hypothermia parts.

14 Q. Okay. And what's that?

15 A. It's the cart that they use -- some patients
16 are -- they call them -- are malignant, and we have to
17 make sure that cart is up to date and checked, you know,
18 on a daily basis.

19 Q. Okay. Are there any other substantial duties
20 that you describe -- that you perform during your shift
21 as an anesthesia tech that you've not yet described for
22 us?

23 A. I can't think of any quite off the top of my
24 head, but there are other duties.

25 Q. Okay. What shift do you presently work?

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1 A. Day shift.

2 Q. And what are the hours of the day shift?

3 A. 6:45 to 3:15 in the afternoon.

4 Q. And are you aware of how many other anesthesia
5 techs who work during the day shift when you're on duty?

6 A. There are others.

7 Q. Do you know what the approximate numbers are?

8 A. Oh, it can vary.

9 Q. Okay.

10 A. It can vary.

11 Q. Do you know -- could you give us an idea of
12 what the low and high would be?

13 A. On the day shift you will probably have
14 approximately eight -- eight people.

15 MR. ARNOLD: I'm sorry. Can you say that
16 again, please.

17 THE WITNESS: Approximately eight people.

18 BY MR. HARRINGTON:

19 Q. And during your shift at 6:45 a.m. to 3:15 p.m.
20 approximately, how do you learn what your assignments
21 are?

22 A. There's a sheet that's -- that's placed on the
23 manager's door. And on that you look on the sheet, and
24 it has everyone's -- it has the assignments, you know,
25 Spectralink phone. With a Spectralink phone, there's

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1 two other duties involved with that. One is the
2 malignant hypothermia cart, as well as ensuring that we
3 have equipment for our staffs. So you have to ensure
4 that you have sufficient equipment for the setup as well
5 as, you know, logging up the hypo -- malignant
6 hypothermia cart. I'm sorry.

7 Q. Okay. So associated -- so you would find a --
8 an assignment listing on the manager's door?

9 A. Yes.

10 Q. And what would it tell you -- apart from the
11 Spectralink phone assignment, what other kinds of
12 information would you find there?

13 A. Restocking of the labor cart, cleaning the
14 soiled room that we have, restocking the pediatric
15 supply carts that we keep in the room, restocking fiber
16 optic carts. Making sure that the processing sheets are
17 stamped like for -- when we -- when doctors use like --
18 let's say a -- fiber optic scopes, echo props, things of
19 that nature, we have to go to those rooms where those
20 items are located, and we have to stamp the reprocessing
21 sheets to make sure that the patient matches the scope
22 that was used for that case.

23 Q. Okay. So during your shift, for example, are
24 you assigned particular room locations or are you
25 assigned that work with anesthesiologist? How do you

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1 understand on a daily basis what you, Gerald Ashford,
2 are to do?

3 A. What I am to do, that's -- there's no -- you're
4 not assigned to -- okay, you're assigned to this aisle.
5 You're assigned to this aisle, you know. No. I mean,
6 whatever room comes up, you get, you know.

7 Q. Okay. Is there a supervisor or a man -- is
8 there a supervisor on the day shift?

9 A. Yes.

10 Q. Okay. And do you have interaction with that
11 person typically during your shift?

12 A. Yes.

13 Q. About what kinds of issues?

14 A. Oh, issues of -- sometimes, you know, this
15 doctor would like this item here supplied in this cart;
16 or it could be an array of things, you know.

17 Q. Now, you said that one of the assignments that
18 would appear on the assignment listing is the
19 Spectralink phone assignment --

20 A. Uh-huh.

21 Q. -- is that correct?

22 A. Yes.

23 Q. Have you carried the Spectralink phone?

24 A. Yes.

25 Q. And how do you know on any particular date that

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1 you are given that particular assignment?

2 A. You don't, sir.

3 Q. Okay. How do you learn that you have it on any
4 particular day?

5 A. When you arrive -- when you report to work in
6 the morning, then you look at the sheet on the door.

7 Q. Okay. What is the Spectralink phone?

8 A. It's a -- it's a internal phone that's used for
9 a resident or anesthesiologist. It's a faster way of
10 communication. It's a faster way of them contacting you
11 from the OR room, you know, to say, you know, I need
12 this item. I need this item.

13 Q. Okay. So it's a -- is it in the nature of a
14 cell phone device?

15 A. Just like one, yes, sir.

16 Q. Okay. And where -- if you have that assignment
17 that day, where do you get the phone from?

18 A. You -- basically the night shift person would
19 pass it off to you along with the -- basically, it's
20 like a report off, you know.

21 Q. Okay. So let's assume it's a day where you
22 come on and you've discovered that you have that
23 particular assignment.

24 A. Uh-huh, yes.

25 Q. Is there some overlapping timeframe between the

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1 off-going shift and the on-coming shift?

2 A. No.

3 Q. So how would you get the phone and -- and/or
4 how would you get this report that you referred to?

5 A. I get the report from the night shift person,
6 you know, before the -- I would come in, okay, I'm the
7 person with the phone. I -- you know, the person -- the
8 night shift person that has the phone, they say, okay --
9 you know, we switch off the phone.

10 And he says, okay, this case is going to start
11 here. A case is in room 2, they reversed their order.
12 Room 1 is going to need an echo prop, so he's basically
13 giving you a heads up of what you're going to be needing
14 for these cases.

15 Q. And is there then a physical transfer of the
16 phone?

17 A. Yes, it is.

18 Q. So there is some time during your shift when
19 that person is still on duty?

20 A. Yes.

21 Q. And how long a period is that?

22 A. The night shift person leaves at 7:15.

23 Q. Okay. How many operating rooms are running in
24 the daytime typically?

25 A. The OR has 20 -- the main OR has 21 rooms. I'm

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1 not going to count the extension rooms; so on average,
2 all rooms can be going.

3 Q. Okay. So what number of rooms -- if they're
4 all going, what number of rooms is that?

5 A. Twenty-one.

6 Q. Okay. So, again, we're talking about a day
7 where you have been given the Spectralink phone, you get
8 this turnover report. And what do you then do as you
9 carry the phone -- what occurs to you as a person
10 carrying the phone during that shift?

11 A. Well, when you're carrying the phone, again,
12 you're still an anesthesia tech, you are expected to
13 carry out the normal duties of an anesthesia tech. With
14 the Spectralink phone is when a phone does ring and, you
15 know, a doctor or resident needs an item -- let's say
16 you're turning over a room -- you have to stop what
17 you're doing. Go retrieve that item, take it to that
18 doctor and return to the room that you were turning
19 over.

20 Q. And how have you been made aware that that's
21 your responsibility?

22 A. Again, when you arrive to work in the morning,
23 you look at the sheet on the manager's door, and you see
24 that that is your assignment for the day, in addition to
25 your --

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1 Q. So we have calls concerning retrieving items,
2 which sounds like additional supplies?

3 A. And you also receive --

4 Q. What other kinds of calls would you get?

5 A. You receive calls from the control desk
6 notifying you of cancellations, add-ons and room
7 changes.

8 Q. And as the person with the Spectralink phone,
9 what, if anything, are you to do with respect to this
10 new information?

11 A. Well, when it comes to the calls from the
12 control desk, you know, you have to go back to the
13 anesthesia workroom and make those changes to the OR
14 schedules so the rest of the staff is aware. For when
15 that room does come out and, you know, this add-on
16 patient is added to that room at that time, you need to
17 know who that patient is. The patient's age. That way
18 the room can be set up for that patient.

19 Q. So if you have a Spectralink phone, do you have
20 responsibility to make those notations?

21 A. Uh-huh, yes. Yes. I'm sorry.

22 Q. And do you have any responsibility, as you
23 understand it, to notify your coworkers of these
24 changes?

25 A. My way of notifying the coworkers would be to

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1 make those changes to the schedule that we have up in
2 the room.

3 Q. Okay. Have you noticed -- are there other ways
4 that information gets communicated?

5 A. There are times when the control desk will call
6 into the actual anesthesia workroom, by chance someone
7 will be there to answer the phone.

8 Q. So we have the control desk communicating with
9 you about add-ons and cancellations. We have requests
10 for additional items.

11 Are there other kinds of things which, in your
12 experience, occur during the day when you have the
13 Spectralink phone that you must respond to?

14 A. I can't recall any right now.

15 Q. Okay. Prior to the implementation of this
16 contract, which is January 20, 2006, had you been
17 carrying the Spectralink?

18 A. Yes.

19 Q. And for how long prior then, to your
20 recollection, had you been carrying -- been assigned to
21 carry it?

22 A. I'm sorry. Can you repeat that?

23 Q. For how long had the Spectralink phone been in
24 service, if you will, or in effect in the unit prior to
25 January of 2006?

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1 A. I can't really recall how long, sir.

2 Q. Okay. Was it more than one year?

3 A. More than one year? I believe.

4 Q. Okay. Do you know whether it was more than two
5 years?

6 A. I'm sorry. I really don't understand the
7 question you're asking.

8 Q. Okay. You've talked about this function with
9 the Spectralink phone; is that correct?

10 A. Yes.

11 Q. The question I'm asking is simply: For how
12 long, prior to January of 2006, had the Spectralink
13 phone been in use in the department?

14 A. More than a year.

15 Q. Okay. And before the Spectralink phone was
16 introduced, was there some other way of communicating
17 with someone who is assigned to have different
18 responsibilities on each shift?

19 A. We had a pager.

20 Q. And how was the pager assignment handled?

21 A. That -- in that time the pager was assigned on
22 a weekly basis.

23 Q. And if you had the pager, did you have the same
24 or similar responsibility as those assigned or
25 associated with the Spectralink phone?

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1 A. The same.

2 Q. Okay. And when you had the pager, were you
3 made aware of what the priority was as opposed to -- as
4 between the pager and your regular duty assignment?

5 A. Pager was really the priority.

6 Q. Was that true under the Spectralink assignment
7 as well?

8 A. The same is true.

9 Q. Now, are there other ways that you can receive
10 information during your shift other than through the
11 Spectralink phone?

12 A. None other than if someone were to actually
13 call into the anesthesia workroom and someone was
14 actually there to answer the phone.

15 Q. What about the use of overhead paging devices?

16 A. No.

17 Q. Okay. Is that a way that is -- the
18 communication is made between and among the anesthesia
19 techs?

20 A. No.

21 Q. Do you know whether the overhead page is heard
22 in the work areas that you are assigned to?

23 A. In the outside areas, you can hear. But if
24 you're inside an OR room, you cannot.

25 Q. What about in the workroom itself?

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1 A. No, you cannot.

2 Q. Now, prior to January of 2006, of your own
3 experience, how often would you have the Spectralink
4 phone assignment?

5 A. Prior to 2006?

6 Q. Right.

7 A. I believe at that time, they carried the same
8 as when we had the pager.

9 Q. And what do you mean -- so how often would you
10 have the duty?

11 A. It could be on a weekly basis if it's prior.

12 Q. Okay. When you had the pager, did you receive
13 any compensation for the shift when you were carrying
14 the pager?

15 A. At the time, yes, we did.

16 Q. Do you recall what the compensation was?

17 A. I believe it was 5 percent.

18 Q. When the Spectralink phone was introduced, did
19 you have any compensation for having that assignment?

20 A. At that time, yes, we did.

21 Q. And what was that?

22 A. 5 percent.

23 Q. And when you had the Spectralink phone, for how
24 long would you have it?

25 A. For the duration of your shift.

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1 Q. Okay. And likewise, when you had the pager,
2 how long would you have it?

3 A. For the duration of your shift.

4 Q. And if you had the Spectralink phone on your
5 day shift, at the conclusion of your shift, what, if
6 anything, were you to do with the phone?

7 A. Report it off to the evening shift person.

8 Q. And would you give a similar report as you
9 described you would -- yourself had received in the
10 morning?

11 A. Yes.

12 Q. Okay. And would you physically hand the phone
13 over?

14 A. Yes.

15 Q. And how would you know to whom to give it?

16 A. That sheet on the manager's door.

17 Q. Now, with respect to the duties associated with
18 carrying the Spectralink phone, did that -- did those
19 duties from time to time cause you to talk to your
20 coworkers about issues that were coming up?

21 A. Yes.

22 Q. And did you, in connection with that
23 assignment, have occasion to ask them to do something
24 different than they had been doing? In other words,
25 change their -- their duty?

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1 A. Ask that question again.

2 Q. Okay.

3 A. I want to make sure I'm answering the question
4 that I'm asking you.

5 Q. Right. You said that one of the things you
6 might get is, for example, a call from the control desk
7 telling you about add-ons or cancellation.

8 A. Right.

9 Q. And you said you would communicate that by
10 writing notes on a document.

11 A. Uh-huh.

12 Q. Did you ever have occasion to communicate it
13 verbally to coworkers?

14 A. Yes.

15 Q. Okay. And did you, as you understood it, have
16 the ability the ask them to change what they were doing
17 and to do something else?

18 A. I didn't have that ability.

19 Q. Did you have the ability to ask them to do
20 that?

21 A. Yes.

22 Q. Was that, likewise, true of the pager?

23 A. Yes.

24 Q. Now, on your shift in the daytime you said
25 there's a supervisor on the shift.

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1 A. Yes.

2 Q. Is there also a manager -- or are these the
3 same person?

4 A. They're one and the same.

5 Q. Okay. Have you worked on other shifts other
6 than the day shift during your experience with -- as an
7 -- employment as an anesthesia tech?

8 A. Yes.

9 Q. And which of the other shifts have you worked
10 on?

11 A. Evening shift and night shift.

12 Q. Okay. And have you carried the Spectralink
13 phone on the evening shift?

14 A. Yes, I have.

15 Q. Have you had occasion to carry it on the night
16 shift?

17 A. Yes.

18 Q. And are there any differences in the activity
19 assigned to carrying it on those two shifts as compared
20 to the day shift?

21 A. There's no difference in duties.

22 Q. Is there any manager or supervisor on duty in
23 the p.m., if you know?

24 A. I think they leave that to the nursing
25 supervisor.

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1 Q. Okay.

2 A. The charge nurse is what they call it. I'm
3 sorry.

4 Q. So your own departmental manager would not be
5 present during the p.m.s?

6 A. No.

7 Q. What about during the night shift?

8 A. No. You still have the charge nurse.

9 Q. Okay. Are you able to give us an estimate or a
10 calculation of when you're carrying the Spectralink
11 phone, how many calls you would receive during a typical
12 or customary shift?

13 A. Anywheres between 40 to 50.

14 Q. And are the numbers greater or lesser, in your
15 experience, if you look at the p.m. shift?

16 A. At times, it could be greater.

17 Q. Okay. And are you aware of why it might be
18 greater on the p.m. shift?

19 A. Because you have some cases that are very
20 more -- much more involved and some cases that are going
21 longer than our shifts, and that's -- let's say a heart
22 transplant or something, which is a pretty lengthy case,
23 it can extend into the afternoon shift. And, you know,
24 they can pick up additional calls from cases like that
25 that will be going on.

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1 Q. Okay. So the afternoon shift, is that the same
2 as the evening shift when you use those terms?

3 A. Yes, sir. I'm sorry.

4 Q. That's okay. And what about on the night
5 shift, what -- is there a -- can you tell us, based on
6 your experience, whether a greater or lesser number of
7 calls on the night shift if you have the Spectra.

8 A. It could be a lesser.

9 Q. Okay. And is there an explanation that you're
10 aware of for that?

11 A. Well, night shift -- hopefully, people are kind
12 of healthy at night. And, you know, you don't have as
13 many -- you still have surgeries that are going, but,
14 you know, they're more of a loner. Let's just say we
15 have more time to do them type of things. So you have
16 the night shift person, but they do get calls.

17 Q. Now, did you became aware that the Employer
18 stopped paying the 5 percent differential?

19 A. Yes, I did.

20 Q. And after the time that you became aware that
21 the Employer had stopped paying the differential, did
22 you have the Spectralink phone assignment?

23 A. Yes.

24 Q. And were there any difference in the duties you
25 were asked to perform when carrying that phone after the

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1 time they stopped paying the money?

2 A. No.

3 Q. Is there any reduction in any of the numbers of
4 times you would be asked to carry it if you compared
5 before they stopped paying with --

6 A. No.

7 Q. -- after?

8 A. No.

9 MR. HARRINGTON: That's all I have for the
10 witness. Thank you.

11 MR. ARNOLD: Off the record for a few minutes.

12 THE ARBITRATOR: Yes, certainly.

13 (Recess.)

14 MR. ARNOLD: Back on the record.

15 THE ARBITRATOR: Yes, sir.

16 CROSS EXAMINATION BY MR. ARNOLD

17 BY MR. ARNOLD:

18 Q. Mr. Ashford, you testified there were
19 approximately eight techs on the day shift. How many
20 techs, approximately, are there in the main OR in the
21 evening shift?

22 A. My guess would be four.

23 Q. And how about the -- that's a guess or is that
24 a --

25 A. Well, it could be four. It could -- sometimes

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1 it could be five.

2 Q. And what about the night shift?

3 A. Two.

4 Q. And the entire time you have been employed at
5 Stanford Hospital and Clinics, you were employed in the
6 main OR?

7 A. No.

8 Q. Where else were you employed?

9 A. I've been employed in the main OR -- in the
10 operating -- in the main OR since June 3rd of 2002, is
11 when I started working in the main OR.

12 Q. Okay. And since then, you have worked in the
13 main OR --

14 A. In anesthesia --

15 Q. -- the entire time?

16 A. In the anesthesia workroom.

17 Q. So you've not worked, for instance, in
18 ambulatory surgeries?

19 A. As a perioperative charge coordinator.

20 Q. But not as an anesthesia tech?

21 A. No.

22 Q. And what about the out-of-department
23 assignment, do you take the out-of-department
24 assignment?

25 A. Yes, I do.

1 Q. And do you work the OR extension?

2 A. The main OR extension is relatively new. I
3 have been assigned, I do believe, only one time since
4 it's been open.

5 Q. And have you carried the Spectralink phone in
6 the main OR extension?

7 A. Yes, I have.

8 Q. And how does that differ from working on the
9 main OR?

10 A. Well, the main OR extension you only have four
11 OR rooms down there, and you don't get as many calls,
12 but the duties are still the same.

13 Q. So when you're down in the main OR extension,
14 is one of your duties carrying the Spectralink phone to
15 do the hypothermia -- malignant hypothermia check?

16 A. No.

17 Q. What about -- I'm sorry. I don't remember your
18 answer. Did you say you had worked in the ambulatory
19 surgical center -- not in the ambulatory surgical center
20 as a tech?

21 A. I work in -- since I've been employed as an
22 anesthesia tech where I am now, one of the assignments
23 you are assigned to work is in ASC, if that's the
24 question you're asking.

25 Q. Okay. So you have worked in the ASC?

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1 A. Yes, I have.

2 Q. And have you carried the Spectralink phone when
3 work in the ASC?

4 A. Yes.

5 Q. And how do the duties there differ?

6 A. They don't.

7 Q. What about the volume of calls?

8 A. The volume of calls may differ.

9 Q. In what direction, higher or lower?

10 A. My guess -- I would say -- I really want to say
11 it could be the same, but it would be slightly lower.

12 Q. And are you responsible in the ASC for checking
13 the malignant hypothermia checklist?

14 A. Not in the ASC, sir.

15 Q. What about out-of-department assignments, have
16 you carried the Spectralink phone on out-of-department
17 assignments?

18 A. Yes, I have.

19 Q. And how does it -- what is the
20 out-of-department assignment? What are you doing when
21 you're assigned out of the department?

22 A. When you're assigned out of department,
23 basically you're covering areas, such as, MRI, CAT scan,
24 cath lab, and interventional radiology; so you're
25 providing support to the doctors and residents who are

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1 working in those areas on cases.

2 Q. And what are the duties of a person -- how do
3 the duties of a person carrying the Spectralink phone
4 differ in the out-of-department assignment?

5 A. The Spectralink phone that you're carrying for
6 out of department is, again, you're supporting the
7 doctors and residents who are working out of department.

8 Q. Well, give me some examples. I mean, isn't it
9 true that the Spectralink phone carried by the
10 out-of-department anesthesia tech is so that they can be
11 communicated with because they're not in the department
12 and they're being told where they need to go next?

13 A. No.

14 Q. Then what is the use of it?

15 A. The use of the phone -- like I say, you have a
16 schedule of your out-of-department -- of the cases that
17 you've got going, okay. You carry a phone because the
18 nurses can call and say, okay, we need you to set up
19 cath lab room 3 for this case here. We need you to set
20 up cath lab room 4 for an angiograph. You know, that's
21 for the cath lab and those departments to get ahold of
22 you.

23 Q. Just to give you -- that's just to give you
24 your assignment, though; right?

25 A. That's -- that's not my interpretation of an

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1 assignment. You know, there are --

2 Q. What's --

3 A. -- an assignment --

4 MR. HARRINGTON: Could you let him finish.

5 MR. ARNOLD: No. He said it wasn't his
6 interpretation, so I'm asking what is your
7 interpretation of assignment?

8 MR. HARRINGTON: I object to him interrupting
9 the witness when giving the answer.

10 Let him finish his answer.

11 THE ARBITRATOR: Okay.

12 BY MR. ARNOLD:

13 Q. What is your interpretation of an assignment?

14 A. My interpretation of an assignment is when you
15 report to work in the morning and you look at that sheet
16 on the manager's door. Okay, Gerald, you're assigned to
17 work out of this department. That's my assignment.
18 Okay.

19 That assignment, it includes the Spectralink
20 phone and you are to answer the call, you know, per --
21 for out of department, you know. We have a case that's
22 going to start in CAT scan, could you set this case up.
23 We have a case starting down in MRI, could you set this
24 case up. You know, we need a turnover in a cath lab
25 room 7, could you go and turn it over.

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1 Q. Okay. So your daily assignment is out of the
2 department, but your specific assignments are set up
3 cath lab or set up this or do that; correct?

4 A. Where they tell you to set up.

5 Q. And that's -- and you learn of those
6 assignments because they call you on the Spectralink
7 phone and tell you that's what you need to do next;
8 correct?

9 A. You're really kind of mixing me up here because
10 when they call you, you know, they call you, okay, we're
11 done with this case and would you mind -- you know,
12 we're done here, would you turn it over. Okay. We've
13 got another case coming.

14 Okay. I'm sorry, sir. Would you rephrase your
15 question again?

16 Q. How do you find out what you're supposed to do
17 at different times during the day is by virtue of
18 getting a call on the Spectralink phone; correct?

19 A. Correct.

20 Q. And that's the purpose and the use of
21 Spectralink phone when you are out of department;
22 correct?

23 A. We're out of department.

24 Q. This malignant hypothermia checklist, what
25 exactly does that involve?

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1 A. It just involves that you -- it involves that
2 the -- the tag on a cart has not been removed. That the
3 tag number is still the same and that the drugs are
4 still within -- within range of the date and not
5 outdated.

6 Q. So you look at the -- it's a cart?

7 A. Uh-huh.

8 Q. You look at the cart and make sure it's still
9 got that lock tag?

10 A. Make sure it's still got it.

11 Q. And on the top it's got dates of drugs; right?

12 A. What it is, you have a logbook on top of the
13 cart. Now, pharmacy is --

14 Q. Right.

15 A. -- their portion is to check on the outdates.
16 Basically, we just follow the log.

17 Q. And that takes how long to do that, all that, a
18 minute?

19 A. Give or less.

20 Q. A minute or less?

21 A. Give or take.

22 Q. To check the hypothermia cart --

23 A. Yeah.

24 Q. -- the malignant hypothermia cart?

25 A. Yes.

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1 Q. Now, you said that the -- is it your testimony
2 that the overhead pager is not used?

3 A. Not for anesthesia techs.

4 Q. It's never used to page an anesthesia tech;
5 that's your testimony?

6 A. There are rare occasions where someone would be
7 overhead paged, but that's a rare occasion. You're more
8 -- if you're carrying the Spectralink phone, that's how
9 they're going to call you.

10 Q. But if you aren't the person carrying the
11 Spectralink phone and they're paging an anesthesia tech,
12 would they page over the overhead page?

13 A. Maybe so, sir.

14 Q. And could they also call on the landline into
15 the workroom?

16 A. Yes, sir.

17 Q. If you're in the workroom as an anesthesia
18 tech; whether or not you're carrying the Spectralink
19 phone, aren't you expected to answer the landline when
20 it rings?

21 A. Yes, sir.

22 Q. And if they ask you to bring something to them
23 or just do something, you're supposed to do it?

24 A. Yes, sir.

25 Q. And if you're busy at the moment and there's

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1 another tech there, you can ask them if they could cover
2 it for you; right?

3 A. If one is available.

4 Q. Right. And when you're carrying the
5 Spectralink phone, all you can do is ask someone who is
6 available if they'll change their assignment; correct?

7 A. You can't ask someone to change their
8 assignment, sir.

9 Q. So if they're available, you can ask them if
10 they'll do something?

11 A. Exactly.

12 Q. But you can't -- you can't change their
13 assignment?

14 A. No.

15 Q. And isn't it true that any anesthesia tech can
16 ask another anesthesia tech who's available, if they
17 will do a particular task if the first anesthesia tech
18 is busy?

19 A. It's true they can ask.

20 Q. And the same as the guy with the Spectralink
21 phone can ask; correct?

22 A. If you find someone that's not so, so busy.

23 Q. Right. So any anesthesia tech if they find
24 another tech who is not so, so busy, can ask them if
25 they can handle a particular request that's been made;

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1 correct?

2 A. Yes.

3 Q. And if someone -- you said that sometimes the
4 control desk might call into the anesthetic workroom on
5 landline to notify of an add-on or a cancellation or a
6 change in schedule; is that correct?

7 A. Yes, they have.

8 Q. And whoever answers the phone and gets that
9 information, are they expected to write it on the board?

10 A. Yes.

11 Q. The same as the person carrying the Spectralink
12 phone?

13 A. Yes.

14 Q. And you testified about a number -- early on in
15 your testimony you testified about -- I missed the first
16 one, but you talked about restocking carts. There was a
17 pediatric cart, and a fiber optic cart -- and what was
18 the third cart?

19 A. The malignant hypothermia -- let's see
20 malignant hypothermia -- oh, pediatric -- the pediatric
21 anesthesia supply carts.

22 Q. And the fiber optic cart. Is there any other
23 cart that -- I just didn't get it written down, what you
24 said.

25 A. There is another one. It's called the block

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1 cart which is kept in the pre-op area.

2 Q. And now, making sure those are restocked,
3 that's -- that's just a general duty of anesthesia
4 techs, that's not the Spectralink tech's duty; right?

5 A. The block cart, FOB, fiber optic carts as well
6 as pediatric supply carts, those are general
7 assignments. That can be assigned to anyone.

8 Q. Yeah. But they're not necessarily assigned
9 to --

10 A. They don't fall under the Spectralink phone.

11 Q. And I think that you said that you -- you don't
12 get specific assignments to OR room No. 2 and OR room
13 No. 3. You're basically expected to handle requests as
14 they come up?

15 A. As they come.

16 Q. And certainly one way to contact people is to
17 contact them by use of the Spectralink phone, but if --
18 if an anesthesia tech is approached by -- in the
19 hallway, the corridors, outside the OR by a nurse or by
20 a physician or an anesthesiologist who says I need this,
21 they're expected to do that; correct?

22 A. They're expected to follow up.

23 Q. And, again, if they're in the middle of
24 something right then and there's another tech down the
25 corridor who is not busy, they can say, could you do

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1 that for the doctor?

2 A. That's called the buddy system, yeah.

3 Q. Now, did you ever have any understanding, prior
4 to February of 2006, as to what position you were
5 filling in when you were carrying the Spectralink phone?

6 A. Say that again, sir.

7 Q. Did anyone ever tell you on the days that
8 you're carrying -- or the week that you're carrying the
9 Spectralink phone, you are actually functioning as some
10 different classification?

11 A. No. You're functioning as an anesthesia tech.

12 Q. And do you know whether, in 2006 right after
13 the extra pay for carrying a Spectralink phone was
14 stopped, they filled a lead anesthesia tech position?

15 A. Let's see. . . When they took away that
16 differential, I don't think a lead was immediately
17 placed.

18 Q. Within a month or so?

19 A. Maybe, sir. I can't be sure of the exact time,
20 but sometime later a lead did follow.

21 Q. And isn't it true that after the lead position
22 was filled, the lead tech began receiving a lot of calls
23 that the main OR Spectralink person would also receive?

24 A. No.

25 Q. Did the lead anesthesia tech carry a

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1 Spectralink phone?

2 A. The lead carried a Spectralink phone, yes.

3 Q. Their own -- their own specific Spectralink
4 phone?

5 A. Their own specific phone.

6 Q. And didn't they at times also carry the main OR
7 Spectralink phone, too?

8 A. No.

9 Q. Now, the lead could change people's
10 assignments; correct?

11 A. The lead could, yes.

12 Q. And after -- the things that you've described
13 in answering my questions, the ability to ask a tech who
14 is not busy to help you out by doing something, that
15 didn't change -- it remained the same after the lead
16 tech was --

17 A. That remains the same.

18 Q. So you still couldn't assign someone -- as a
19 Spectralink phone tech, you couldn't assign someone to
20 change their duties?

21 A. No.

22 Q. But the lead could?

23 A. The lead could.

24 Q. And the duties you've described about the buddy
25 system and those sorts of things, that also applies to

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1 carrying the Spectralink phone in the ambulatory
2 surgical center?

3 MR. HARRINGTON: Vague and ambiguous.

4 BY MR. ARNOLD:

5 Q. Meaning the -- can you Spectralink -- can the
6 tech carrying the Spectralink phone in the ambulatory
7 surgical center change someone's assignment?

8 A. No.

9 Q. What about in the main OR extension, can they
10 change someone's assignment?

11 A. Another anesthesia tech?

12 Q. Right.

13 A. No.

14 Q. And generally the out-of-department anesthesia
15 tech is operating on their own; correct?

16 A. No. You're still under the direction of the
17 supervisor.

18 Q. But I mean you're by yourself, you don't have
19 another anesthesia tech with you generally?

20 A. No.

21 Q. You're the only --

22 A. You're a lone person.

23 Q. You go out and you get a call saying go do
24 this, now go do this --

25 A. Uh-huh.

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1 Q. -- now go do this --

2 A. Yeah.

3 Q. -- on the Spectralink phone?

4 A. Yes. But at the same time, sir, you still have
5 to assume anesthesia-tech duties.

6 Q. Right. Yeah. I mean, that's what they're
7 telling you as an anesthesia tech: I want you to go set
8 up the cath lab or I want you to --

9 A. Uh-huh.

10 Q. -- disassemble the cath lab --

11 A. Yeah.

12 Q. -- or go do this or go do that?

13 A. But as an out-of-department person, yes, you
14 are supporting out-of-department cath lab,
15 interventional radiology, MRI, so on and so forth. But
16 in between while those cases are going, you still have
17 your anesthesia-tech duties in the main OR.

18 Q. So you come back to the --

19 A. You come back to the main OR --

20 Okay. I'm sorry.

21 THE ARBITRATOR: He interrupted you. Don't
22 worry about it. You were testifying.

23 THE WITNESS: Yeah. You are still expected to
24 return to the main OR and function as a part of the team
25 there.

1 BY MR. ARNOLD:

2 Q. And so you finish a duty outside of the OR, and
3 you go back to the main OR. How do you get your
4 assignment to go back out of the OR to do the next
5 thing?

6 A. They'll call you.

7 Q. And "they" would be who?

8 A. It could be cath lab. It could be MRI. It
9 could be CAT scan. It could be interventional
10 radiology. It could be any one of those departments.

11 Q. And they call you on the --

12 A. The Spectra --

13 Q. The way you get that specific assignment is by
14 the Spectralink phone?

15 A. Uh-huh.

16 Q. Now, prior to the Spectralink phone, you said
17 you would carry a pager?

18 A. Yes.

19 Q. It was more difficult when you were carrying a
20 pager than with a Spectralink phone, wasn't it, to
21 respond to calls?

22 A. Yes.

23 Q. You would get paged, and it would tell you to
24 call someone; correct?

25 A. Yes.

1 Q. So, for instance, if you were out of the
2 department, first thing you have to do is find a phone
3 to call them on; right?

4 A. Right.

5 Q. There's some pretty long hallways, as I recall,
6 in Stanford. You could be in a hallway and you would
7 have to go to the nearest place where there might be a
8 phone; correct?

9 A. If it -- at that time -- well, if you're in the
10 OR, you know --

11 Q. Well, let's say out of the department, you
12 could be almost -- you could be a lot of different
13 places; correct?

14 A. If you're out of the department, you could be
15 anywhere.

16 Q. And if you are in the main OR and you got
17 paged, what would you -- go to the phone in the workroom
18 and call?

19 A. You go to the nearest phone.

20 Q. But with the Spectralink phone, you can just
21 answer the phone?

22 A. They'll call you directly.

23 Q. If on the night shift there's a cancellation or
24 an add-on that they're advised about, are they supposed
25 to write it on that board that you've talked about too?

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1 A. Well, on the night shift, basically you're
2 working off the previous day's schedule until after
3 midnight. 'Cause after that time, you're setting up for
4 the next day's cases. So at that time you really don't
5 hear any additions or cancellations until the actual day
6 shift starts.

7 Q. So you were talking about the report that you
8 got from the night shift person. What -- what are they
9 reporting to you?

10 A. What they're reporting to me is sometimes the
11 night shift control desk person will say, Okay, the
12 cases in room 7, we're going to switch the order. First
13 case could go third, second case could go forth; those
14 types of things.

15 Q. Wouldn't -- aren't they supposed to write that
16 down on the board?

17 A. When a new schedule comes out, yeah. But still
18 you have to report it off to the next person on the
19 phone.

20 Q. But they -- you could also learn that
21 information by looking at the board?

22 A. If it's written up there, yes.

23 MR. ARNOLD: Off the record for a moment,
24 please.

25 (Discussion off the record.)

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1 MR. ARNOLD: No further questions at this time.

2 REDIRECT EXAMINATION BY MR. HARRINGTON

3 BY MR. HARRINGTON:

4 Q. Okay. Mr. Ashford, I have a couple of
5 questions about your testimony.

6 Based on your experience working in the main OR
7 area, with what frequency would you typically find
8 anesthesia techs in the workroom during the shift as
9 opposed to in one of the units?

10 A. Very little.

11 Q. So in your experience, do people tend to rely
12 on calling into the workroom to contact someone?

13 A. They rely on calling the Spectralink phone
14 'cause that's more of a direct way of contacting a live
15 person.

16 Q. In these other places where you have worked,
17 you said the ambulatory surgical center, the ASC --

18 A. The ASC.

19 Q. -- how many rooms are in use there, operating
20 rooms, typically?

21 A. In the new ASC? I'm not exactly sure how many
22 -- I'm not sure exactly as to how many rooms there are
23 in the new ASC.

24 Q. Well, new as opposed -- when you use the term
25 "new," are you describing something that occurred after

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1 February of 2006 or became operative?

2 A. Well, the new ASC is where they are located
3 now, which is the cancer building.

4 Q. Well, in the ASC if you were given the
5 Spectralink phone as you've said, is that the same phone
6 that's used in the main OR?

7 A. Yes, sir. Is it -- it's the Spectralink phone,
8 but it's not the Spectralink phone that you would call
9 for the main OR. It has a different number --

10 Q. Okay.

11 A. -- the Spectralink phone's in the main OR.

12 Q. So it's the same device?

13 A. Same device, but different number.

14 Q. Okay. So if you have that particular
15 assignment in the ASC, you have a different Spectralink
16 phone than if you were working in the main OR?

17 A. It's a different Spectralink phone number, yes.

18 Q. And what about in the extension if you were
19 working there with the --

20 A. A different Spectralink number.

21 Q. And what about the out of department?

22 A. A different Spectralink number.

23 Q. And were you ever, to your experience, paid a
24 differential for carrying the Spectralink in these other
25 places?

1 A. No.

2 Q. Okay. So the Spectralink phone to which the
3 differential was attached is the one used in the main
4 OR?

5 A. Yes.

6 Q. Counsel indicated that you could get certain
7 information about schedule changes by looking at a
8 board. In addition to receiving the pass down or
9 report, if you will, from the other shift, in your
10 experience, which one do you rely upon in terms of
11 getting updated information?

12 A. Well, the most -- it's hard to say, sir.
13 Because like I said, when the control desk cannot reach
14 anyone in the anesthetic workroom, they immediately call
15 the Spectralink phone. There that's a sure way of
16 getting in contact with an anesthesia tech, notifying
17 them of the change -- of whatever change is to be made.

18 Q. So in the event that that call was made from
19 the control deck and you're carrying the Spectralink
20 phone, you would then record the new information?

21 A. Yes. You would record those changes of
22 whatever you have to write on. You return to the room
23 to record it on the schedule in the workroom.

24 Q. Just for clarification of the record. If
25 necessary, the malignant hypothermia cart you referred

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1 to, is that a cart which involves the use of
2 chemotherapy of some kind?

3 A. No. Some patients -- I guess they call them
4 malignant. And when those persons aren't being operated
5 on, it's important that we have that malignant
6 hypothermia cart outside the room in case things go
7 wrong, you know, in the room. We had -- the cart had to
8 be there, and it has to be ready to go.

9 Q. And that is an assignment that is connected to
10 the carrying of the Spectralink phone?

11 A. Yes, sir.

12 Q. You said that there was a lead who was, to your
13 knowledge, employed within the department.

14 A. Yes.

15 Q. How long did that lead last?

16 A. Maybe a year.

17 Q. Is there a lead there presently?

18 A. No.

19 Q. And when the lead was working in the unit, did
20 the Spectralink phone that you've testified about that
21 was utilized in the main OR, continue to be utilized?

22 A. By us techs?

23 Q. Yes.

24 A. Yes.

25 Q. Was there any difference in the duties that you

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1 had at that time as compared to before?

2 A. No.

3 Q. Was there a difference after the lead went
4 away --

5 A. No.

6 Q. -- terms of duties?

7 A. No.

8 Q. And do you know whether there's a lead on any
9 shift -- strike that.

10 When you became aware of a lead being employed,
11 on which shift was the person employed?

12 A. Day shift.

13 Q. Was there ever a lead, in your experience, on
14 either the p.m. or the nights?

15 A. No.

16 MR. HARRINGTON: That's all I have. Thank you.

17 RECROSS EXAMINATION BY MR. ARNOLD

18 BY MR. ARNOLD:

19 Q. So, Mr. Ashford, if you're not the one carrying
20 the Spectralink phone on a particular day and there is a
21 change in the operating schedule, you would find it out
22 by looking at the board in the workroom; correct?

23 A. If the control desk was actually able to
24 contact someone either in the anesthetic workroom or the
25 Spectralink phone, one of those two ways, you know,

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1 you'll find whether there's a cancellation or an
2 addition to the schedule.

3 Q. But it gets written up on -- in the schedule;
4 right after -- after the call comes, someone writes in
5 the schedule?

6 A. It is recorded on the schedule.

7 Q. And so if you weren't the person who answered
8 the phone or you weren't the person with the Spectralink
9 phone, but you were working that day, you would find out
10 about that schedule change by looking on the schedule;
11 correct?

12 A. That would be the plan, yes.

13 Q. Okay. Were you ever told when you were working
14 the evening shift or the night shift, that when you
15 carried the Spectralink phone, you were the lead?

16 A. No.

17 MR. ARNOLD: Can we go off the record for a
18 second?

19 THE ARBITRATOR: Yes.

20 (Discussion off the record.)

21 THE ARBITRATOR: I think that the Union has
22 something to clarify with respect to the grievance.

23 MR. HARRINGTON: We'll clarify our claim is
24 directed to the differential which was historically paid
25 to the anesthesia techs who carried the Spectralink

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1 phone associated with the main OR. Those are the
2 employees who were previously receiving the
3 differential.

4 THE ARBITRATOR: Thank you.

5 BY MR. ARNOLD:

6 Q. Mr. Ashford, when the lead was employed for
7 approximately a year, wasn't the lead generally
8 stationed in and around the main OR?

9 A. Yes.

10 Q. And is it your testimony that the night shift
11 -- the person in the main OR carrying the Spectralink
12 phone on the night shift received extra pay?

13 A. I don't know, sir, if they received extra pay
14 pertaining to the Spectralink phone. I really don't
15 know.

16 Q. Okay. And there were only two anesthesia --

17 A. Two anesthesia --

18 Q. -- techs on the night shift?

19 A. -- on the night shift.

20 MR. ARNOLD: No further questions.

21 MR. HARRINGTON: Nothing else right now.

22 THE ARBITRATOR: Okay. Thank you very much,
23 Mr. Ashford.

24 MR. HARRINGTON: Call Paul Granados as a
25 witness.

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1 PAUL GRANADOS,
2 having first been duly sworn, was
3 examined and testified as follows:

4 DIRECT EXAMINATION BY MR. HARRINGTON
5 BY MR. HARRINGTON:

6 Q. Mr. Granados, are you currently employed by
7 Stanford Hospital and Clinics?

8 A. Yes.

9 Q. And how long have you been employed by the
10 hospital in any job capacity?

11 A. April 2004.

12 Q. Okay. And what's the nature of your employment
13 with the hospital?

14 A. I'm an anesthesia technician for the main
15 operating room.

16 Q. And do you have any position as a steward for
17 the Union?

18 A. Yes, I am a shop steward.

19 Q. And when did you become a shop steward
20 approximately?

21 A. Uh, right around February, March of 2006.

22 Q. Okay. When you became employed in April of
23 2004 with the Employer, did you become aware of the
24 existence of what we've referred to as the Spectralink
25 phone?

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1 A. Yes.

2 Q. How did you become aware of it?

3 A. It became my assignment one day.

4 Q. Okay. And --

5 A. Plus, I had seen it. You know, in my training
6 it was obvious one person had this phone.

7 Q. So when you became an employee initially,
8 there's a so-called training period?

9 A. Yes.

10 Q. Okay. And in the training period, you
11 worked -- did you work at the various locations in and
12 on the various shifts?

13 A. Yes. Various locations on your shift.

14 Q. Okay. And when you became employed in April of
15 2004, was there a shift to which you were assigned?

16 A. Day shift, yes.

17 Q. Okay. And did you remain on the day shift?

18 A. Yes.

19 Q. Have you worked on other shifts as well?

20 A. I've worked on the graveyard shift as a
21 rotation -- on a rotational basis. I'm work -- now, I'm
22 currently on the evening shift.

23 Q. And is the evening shift sometimes also
24 referred to as the p.m. shift?

25 A. Yes.

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1 Q. Have you had occasion to receive the
2 Spectralink phone assignment on the day shift?

3 A. Yes.

4 Q. Have you had occasion to receive it on the
5 night shift?

6 A. Yes.

7 Q. Have you had occasion to receive it on the
8 evening or p.m. shift?

9 A. Yes.

10 Q. And on the day shift, how would you become
11 aware that it was your responsibility to carry the
12 phone?

13 A. Looking at the assignment sheet.

14 Q. And prior to February 2006 when you had the
15 assignment to carry the Spectralink phone in the main
16 OR, did you receive a differential?

17 A. Yes. 5 percent.

18 Q. And, again, prior to February of 2006, if you
19 had that assignment on the night shift, did you receive
20 a differential?

21 A. I never had that assignment on the night shift
22 prior to that date.

23 Q. Okay. What about on the evening shift?

24 A. Yes.

25 Q. You did receive a differential?

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1 A. Yes.

2 Q. And during your training period, did you
3 receive any instruction as to what duties or
4 responsibilities were associated with carrying the
5 Spectralink phone in the main OR?

6 A. Yes.

7 Q. What did you learn?

8 A. I learned that you answer it as fast as you can
9 possibly do it and hang on for dear life.

10 Q. Okay. And did you have -- if you had the
11 Spectralink phone during a given shift, did you have any
12 other responsibilities in addition to that?

13 A. Yes. I still had to function as a regular
14 anesthetic tech performing room turnovers, case
15 preparation, what have you.

16 Q. So in your experience in carrying the shift --
17 the Spectralink device during a day shift, with what
18 frequency over the shift would you receive calls in
19 terms of numbers or during a given hour of work?

20 A. During the day shift, the call volume was
21 consistent throughout the entire shift, and I would
22 venture, you know, 50, 60 calls during a day shift.

23 Q. And on the p.m., or evening shifts, when you
24 carried the phone, what was the call volume, would you
25 say during the shift?

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1 A. Probably 40 to 50 calls.

2 Q. And what kinds of calls did you -- would you
3 receive -- or strike that.

4 What kinds of calls did you receive on the
5 Spectralink phone, when you carried it, associated with
6 the main OR?

7 A. You name it. I would get calls for the
8 simplest of supplies from a pen or a pencil to bringing
9 in trauma equipment for an emergency that's coming up
10 from the ER, to setting up a cell saver for a patient
11 that could be in the process of bleeding out.

12 Q. And from whom would you receive the calls when
13 you were carrying the Spectralink phone?

14 A. I would receive the call from nurses in the
15 room, from anesthesiologists in the room, from the
16 control desk.

17 Q. And what did you understand was your
18 responsibility to respond to these calls relative to
19 your regular work, if you will?

20 A. You answer the call as you get it, and then you
21 go back to your regular work and get that done.

22 Q. Mr. Ashford testified to the existence of what
23 he called the anesthesia workroom. Are you familiar
24 with that location?

25 A. Yes.

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1 Q. And does the overhead page system work in
2 there?

3 A. No.

4 Q. Do you perform work in the OR -- in the various
5 operating rooms themselves?

6 A. Yes.

7 Q. Does the overhead page work in there?

8 A. Not inside the OR suites, no.

9 Q. Does the Spectralink phone work in both of
10 those locations?

11 A. Yes.

12 Q. With respect to the various kinds of calls that
13 you have indicated you receive, what, if any,
14 interaction would you have with coworkers in terms of
15 your response to those calls?

16 A. I may need to ask my coworkers to help me out
17 because of the sheer volume of calls or the complex
18 nature of a call.

19 Q. And could you give us an example of how you
20 would ask for assistance from coworkers based on the
21 complex nature of the call? What might you do?

22 A. Well, I could very easily be -- receive a call
23 to go work on a cell saver in a room, which --

24 Q. What is a "cell saver?"

25 A. A cell saver is a -- a cell saver is a blood

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1 collection system that reprocesses the patient's blood
2 and enables you to return that blood back to the
3 patient. And it's -- essentially it's their own blood,
4 and you're not bringing in outside products and -- to
5 assist the circulation system of the patient.

6 In the main OR the anesthesia techs are
7 responsible for operating the cell saver. It can be a
8 time consuming process. If you're carrying that
9 Spectralink, you will be getting the majority of the
10 phone calls to set it up or run a cell saver.

11 If you're running a cell saver, it is the one
12 situation where you can't leave. You cannot drop what
13 you're doing. And at that point, as you're doing the
14 cell saver as the telephone is ringing, you then have
15 choices to make. Either tell this person to wait. Tell
16 this person to forget about it or start making a bunch
17 of phone calls yourself trying to get help.

18 Q. So if you were making a, quote, "bunch of phone
19 calls," unquote, to get help, whom would you be calling?

20 A. Well, on the evening shift there's no one to
21 call because our -- the telephones in the anesthesia
22 workroom at that point are forwarded to voicemail to
23 receive any incoming request for the next day's cases.

24 Q. Okay.

25 A. So on the evening shifts the Spectralink phone

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1 is the main form of communication.

2 Q. So using the -- the Spectralink phone both
3 receives and can be used to send?

4 A. Yes.

5 Q. And if you're carrying it on the evening shift,
6 have you had occasion to seek assistance from others in
7 responding to Spectralink calls?

8 A. Yes.

9 Q. And what -- whom would you be calling to seek
10 assistance?

11 A. My coworkers. I can call the front desk and
12 ask them to try and find me help. I'll be calling back
13 other rooms that have already made requests and letting
14 them know that, you know, you're going to need to wait.
15 This is what I'm doing and this is when I will be
16 available to you. Things of that nature.

17 Q. And if you need assistance form coworkers with
18 respect to responding to those calls, what was your
19 understanding of how you could approach your coworkers
20 in that regard?

21 A. Beg, ask, plead. You know, ask and, hopefully,
22 you'll get the right answer.

23 Q. On the p.m. shift, is there -- or evening
24 shift, as it's also referred to, is there any supervisor
25 on duty?

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1 A. There is a charge nurse, and there is a nurse
2 manager on duty.

3 Q. Are there any department managers on duty?

4 A. No.

5 Q. When do they leave?

6 A. Our previous managers used to leave probably
7 four o'clock to five o'clock in the evening. Our
8 current manager, she stays there till around 7:00 or so.

9 Q. As the person carrying the Spectralink phone in
10 the main OR, do you have any responsibilities to record
11 -- as you understand it, to record changes in the
12 schedule?

13 A. Yes.

14 Q. And what is the responsibility?

15 A. The responsibility is to record any changes
16 either case cancellations, room switches to record it on
17 our schedule in our workroom so that everybody else can
18 see it.

19 Q. And as you understand it, do you have any
20 responsibility to give any verbal notification to
21 coworkers of any such changes?

22 A. If I have -- if there are coworkers present, I
23 will verbalize those changes. If they're not present,
24 then I'll just physically make a change on the schedule
25 and leave it at that.

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1 Q. With respect to the Spectralink phone in the
2 main OR, are there occasions when you would receive a
3 call for additional equipment or supplies?

4 A. Yes.

5 Q. And where are they maintained?

6 A. We main -- all our supplies are basically
7 maintained within the anesthesia workroom. The majority
8 of our employment is in the anesthesia workroom. We do
9 have a few satellite storage areas where we keep other
10 additional equipment, but the bulk of our supplies and
11 equipment is in that workroom.

12 Q. And if you had an assignment within one of the
13 ORs and you had the Spectralink phone, what did you
14 understand your responsibility was in terms of obtaining
15 those additional supplies if there was a request? Did
16 you ever have to get them yourself --

17 A. Yes.

18 Q. -- or did you have someone do --

19 A. Yes, get them ourselves.

20 Q. After February 2004 up to approximately -- I'm
21 sorry -- April of 2004 up to approximately February of
22 2006, how often would you have the Spectralink phone
23 assignment?

24 A. Well, up until about a year ago, we did
25 week-long assignments, so we'd have -- I'd have that

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1 Spectralink phone about -- you know, for five days out
2 of a month.

3 Q. Would you have it during the entirety of your
4 scheduled shift?

5 A. Yes.

6 Q. And was there any system that you were aware of
7 as to how the phone was moved from worker to worker --

8 A. Umm --

9 Q. -- either on a daily basis or a shift-by-shift
10 basis?

11 A. On a shift basis -- well, there's -- you know,
12 you just look at the assignment sheet and you know who
13 you're giving the phone to when the next shift arrives.

14 Q. How would you know that?

15 A. I would look at our daily assignment sheets.

16 Q. And what would it say relative to the
17 Spectralink phone?

18 A. It's -- the assignment sheet is divided into
19 shifts. So basically if you're day shift, you're
20 looking at day shift. And it has all the various
21 assignments, Spectralink being one of them. You could
22 then look at the next shift; and you go, okay, well, I
23 know that this person is going to take over the
24 Spectralink. That's who I'll be giving it to.

25 Q. And in terms of handing the phone on to the

1 next shift, did you have any other responsibilities
2 associated with that?

3 A. Yeah. You want to give as detailed a report as
4 you possibly can.

5 Q. And what kind of report would you give in your
6 direct experience?

7 A. You would report room changes, cases being
8 canceled, orders being switched of cases. Cases being
9 added on. Things of that nature.

10 Q. Now, is this information that also would be
11 found within the workroom on a board of some sort?

12 A. Yeah, yeah. It's -- of our schedule that's
13 posted in the workroom.

14 Q. And why would you do it in this verbal way
15 rather than simply saying, for example, go look at the
16 board?

17 A. The more communication, the better. I mean,
18 this is life and death, what we do.

19 Q. Were you trained to make this verbal report?

20 A. Yes.

21 Q. And have you, in turn, received verbal reports
22 of this kind when you come on the shift and received the
23 phone?

24 A. Yes, I have.

25 Q. Now, have you also had the Spectralink phone in

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1 these other areas, ASC, OR extension and out of
2 department?

3 A. Yes, I have.

4 Q. And is the function -- strike that.

5 When you have the assignments in these other
6 locations, did you receive the differential?

7 A. No.

8 Q. Is the function different in your experience in
9 these other places as compared to the main OR?

10 A. Definitely.

11 Q. And what's different about it?

12 A. Well, if you have -- well, for example, if you
13 have the out-of-department phone, you've got maybe four
14 or five out-of-department cases.

15 You know, we only have four anesthesia machines
16 that are set aside for out of departments. So the most
17 we can actually run are four cases at any one given
18 time, so you tend to be focused with getting the initial
19 out-of-department cases up and running.

20 But after that point, you're free and clear and
21 it's -- you know, you go back to the main OR and start
22 doing regular anesthesia duties.

23 Q. What about in the extension?

24 A. The extension -- my experience with the
25 extension has been very minimal, mostly because it just